

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 1487 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE KUNDAN SINGH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? No.
2. To be referred to the Reporter or not? No.
3. Whether Their Lordships wish to see the fair copy of the judgement? No.
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? No.
5. Whether it is to be circulated to the Civil Judge?
No.

JYOTIBEN MAHESHKUMAR SOLANKI

Versus

STATE OF GUJARAT

Appearance:

MR HARIN P RAVAL for Petitioner
MR CC BHHALJA, agp for Respondent No. 1 to 3.
MR HS MUNSHAW for Respondent No. 4
NOTICE SERVED TO respodnent no. 5.

CORAM : MR.JUSTICE KUNDAN SINGH

Date of decision: 10/05/99

ORAL JUDGEMENT

This petition has been filed for quashing the impugned order dated 3-12-98 /3-1-99 Annexure-N of the District Collector, at Dahod.

2. The contention of the learned counsel for the petitioner is that the land in question has been transferred in favour of the petitioner in the year 1990

and the name of the petitioner is running in the revenue record. The Collector without issuing any notice or without affording any opportunity of hearing has passed the impugned order behind the back of the petitioner. The prayer of the learned counsel for the petitioner is only that the impugned order of the Collector be quashed and the Collector may be directed to pass afresh order after hearing the petitioner.

3. From the papers on record, it appears that the petitioner has not been issued any notice regarding the proceedings before the Collector nor he was given any opportunity of hearing. Therefore, the impugned order passed behind the back of the petitioner is illegal and cannot be sustained in the eye of law.

4. In the facts and circumstances of the case, I think it proper to quash the impugned order Annexure-N and to remand the matter back to the Collector so that the parties may agitate their contentions. Therefore, the Collector is required to be directed to decide the matter afresh after giving reasonable opportunity of hearing to the parties,

5. Accordingly, the petition is allowed and the impugned order Annexure-N of the District Collector is quashed and the matter is sent back to the Collector. The Collector shall issue notice to the parties concerned within 15 days from production of a certified copy of this order. The Collector is directed to decide the matter afresh in accordance with law, after affording reasonable opportunity of hearing to the parties as far as possible within four months thereafter. Rule is made absolute, to the aforesaid extent, with no order as to costs. D.S. is permitted.

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/JVSatwara/